

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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In re:

PROMESA

Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO,
et al.,

(Jointly Administered)
This Order relates only to
17 BK 3567-LTS and shall
be filed in the Lead Case No.
17 BK 3283-LTS and Case
No. 17 BK 3567-LTS

Debtors.¹

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ORDER DIRECTING SUPPLEMENTAL BRIEFING AND STATUS REPORT IN CONNECTION WITH NOTICE
OF COMPLIANCE AND PETITION FOR PAYMENT OF FUNDS (DOCKET ENTRY NO. 345) AND MOTION
INFORMING STATUS OF CASE AND REQUEST OF ORDER (DOCKET ENTRY NO. 406)

On December 7, 2017, Adrián Mercado Jiménez (“Movant”) filed a *Notice of Compliance and Petition for Payment of Funds* (the “Payment Motion”) (case no. 17-3567, docket entry no. 345) seeking payment of \$16,448 from HTA (the “Settlement”) and on February 27, 2018, Movant filed a *Motion Informing Status of Case and Request of Order* (case no. 17-3567, docket entry no. 406) (the “Informal Motion”, together with the Payment Motion, the

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

“Motions”). In the Payment Motion, Movant seeks payment of \$16,448 from HTA in connection with a prepetition settlement reached in an eminent domain action commenced in the Court of First Instance in San Juan, Puerto Rico (the “State Court”) captioned Autoridad de Carreteras y Transportación de Puerto Rico v. Sucn. de Luis Alberto Mercado Jiménez et al., Case No. K EF2011-0240 (the “Lawsuit”). HTA has reportedly deposited the Settlement funds with the State Court. In the Informal Motion, Movant requests that this Court enter an order directing HTA to pay the Settlement directly to Movant. Movant acknowledges that he and HTA entered into a stipulation on February 5, 2018 (the “Stipulation”), modifying the automatic stay to allow for payment of the prepetition Settlement, but alleges that he would not have entered into the Stipulation if he had known the Settlement would be deposited with the State Court rather than paid directly to him. (See Informal Motion, ¶¶ 24-30.) On February 21, 2018, the Court entered a *Second Omnibus Order Granting Relief from the Automatic Stay* (case no. 17-3283, docket entry no. 2565) approving the Stipulation.

On April 20, 2018, HTA filed a response (the “Response”) to the Motions. (Case No. 17-3567, Docket Entry No. 431.) In the Response, HTA asserts that Puerto Rico law requires that the Settlement be consigned to the State Court. (Response, ¶ 6, 9.) Attached to the Response is a copy of an order apparently issued by the State Court on March 19, 2018 (Docket Entry No. 431-2, the “March Order”), that provided, inter alia, that the State Court would return the consigned sum if HTA did not provide the court with proof of the granting of stay relief with respect to the case. On April 27, 2018, Movant filed a reply (Case No. 17-3567, Docket Entry No. 433, the “Reply”) to HTA’s Response. In the Reply, Movant represents that HTA did not make a submission to the State Court and that the State Court entered an order on April 16, 2018

(the “April Order”) maintaining the stay of the Lawsuit. (See Reply ¶¶ 18, 19 and Exhibit L to Reply.)

The parties are directed to meet and confer and provide: (i) a joint status report on whether any submissions were made to the State Court indicating that the Title III court had entered an order modifying the automatic stay to permit the release of the Settlement, (ii) an assessment of the status of the State Court proceeding and the parties’ understanding of whether the State Court will return the Settlement to HTA based on the March Order, and (iii) a statement as to whether, if the Settlement is to be returned by the State Court to HTA, the parties would be willing to conclude their Settlement with a direct payment to the Movant in return for a release and any additional documentation HTA may reasonably specify and require. Such status report must be filed by **May 21, 2018 at 5:00 p.m.** (Atlantic Standard Time).

SO ORDERED.

Dated: May 2, 2018

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge